

Texas Low-Level Radioactive Waste Disposal History

- 1980 - The U.S. Low-Level Radioactive Waste Policy Act (LLRWPA) is a federal law, which was enacted to authorize states to manage and dispose of low-level radioactive waste generated within their borders.
- 1981 - The Texas Legislature enacted [Senate Bill 1177](#) (67th Texas Legislature) which created the Texas Low-Level Radioactive Waste Disposal Authority (TLLRWDA), a state agency, in response to the federal law which made each state responsible for the disposal of its own low-level radioactive waste. The TLLRWDA was authorized to raise fees to finance, construct, operate, and decommission a state-owned disposal site for low-level radioactive waste produced in Texas.
- 1982-1983 - The TLLRWDA conducted statewide screening for possible disposal sites and identified possible siting areas in South Texas, West Texas, and Northwest Texas.
- 1985 - The LLRWPA was amended to require siting of regional disposal facilities under a compact system. The U.S. Department of Energy formed the Low-Level Radioactive Waste Forum to support the objectives of the federal law and the compact system.
- 1987 - The TLLRWDA proposed a new site 11 miles northeast of Fort Hancock, in West Texas, for low-level radioactive waste disposal.
- Officials in El Paso County secured a temporary injunction from an El Paso district court preventing further siting work on the Fort Hancock site in Hudspeth County. The injunction was overturned by the Eighth Circuit Court of Appeals, and the TLLRWDA returned to work on the proposed site in early 1988.
- 1988 - The TLLRWDA opened a local office in Hudspeth County to provide information to the local citizens and to coordinate technical studies of the Fort Hancock site to support a license application.
- 1989 - Technical studies at the Fort Hancock site were completed, costing \$1.8 million, funded by Planning and Implementation fees paid by Texas waste generators. The studies addressed the hydrology, geology, meteorology, topography archaeology, and other technical aspects of the proposed site.
- 1991 - El Paso County sued TLLRWDA and won, blocking the Fort Hancock site's consideration. Rather than appeal, TLLRWDA Board of Directors directed staff to begin an alternative site search.
- The Texas Legislature enacted [House Bill 2665](#) (72nd Texas Legislature) to designate a 400-square mile area (about 30 miles southeast of the Fort Hancock site near Sierra Blanca) for the proposed disposal site.
- 1992 - After other studies and consideration and inability to proceed with two other sites over the last decade, an initial license application for Sierra Blanca site was submitted to the Texas Natural Resource Conservation Commission (TNRCC), predecessor to the Texas Commission on Environmental Quality (TCEQ).
- 1993 - The Texas Legislature ratified an interstate compact with Maine and Vermont by enacting [Senate Bill 1206](#) (73rd Texas Legislature) to receive their low-level radioactive waste for disposal in Texas under the Texas Low-Level Radioactive Waste Disposal Compact (Texas Compact).

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Final updated license application for Sierra Blanca radioactive waste site was submitted to TNRCC.

1994 - Maine and Vermont's legislatures ratified the Texas Compact into their respective state laws.

1996 - The TNRCC published a draft license and an environmental and safety analysis for public comment on the proposed facility, recommending the Sierra Blanca site be licensed for low-level radioactive waste disposal.

There were multiple parties, including a Mexican state, that requested a contested case hearing on the TLLRWDA application. A contested case hearing on the application began in August for the Sierra Blanca site.

1998 - The State Office of Administrative Hearings (SOAH) proposal for decision disagreed with TNRCC staff findings for the Sierra Blanca site and recommended denial of the draft license based on the level of study of a geologic fault near the proposed site and possible impacts to nearby communities. The TNRCC Commissioners voted to uphold the proposal for decision and thereby denied the proposed license.

The U.S. Congress ratified the Texas Compact. President Clinton signed the Texas Compact.

1999 - The Texas Legislature enacted [House Bill 2954](#) (76th Texas Legislature) which abolished the TLLRWDA, transferred functions to the TNRCC, and included the repeal of the Planning and Implementation Fees assessed to Texas low-level radioactive waste generators.

2000 - The TNRCC (now TCEQ) conducted and published a study required by the Senate Interim Committee on Natural Resources for consideration by the 77th Texas Legislature, [Storage and Disposal Options for Low-Level Radioactive Waste](#).

2001 - The remainder of the General Revenue Dedicated Low-Level Radioactive Waste Fund (0088) funded by the former Planning and Implementation Fees charged by the TLLRWDA (\$4.9 million) was swept into General Revenue by the 77th Texas Legislature.

2002 - The Maine Legislature passed emergency legislation to withdraw from the Texas Compact because the state's only nuclear reactor, Maine Yankee, was closing and there was no disposal site authorized, planned or built in Texas.

2003 - The Texas Legislature enacted [House Bill 1567](#) (78th Texas Legislature) which provided for the siting and operation of a privately operated commercial low-level radioactive waste disposal facility for the Texas Compact and a separate federal facility for disposal of mixed waste generated and owned by the Department of Energy.

This bill also established a state fee (5% of gross receipts to the state general revenue fund) and a 5% fee to be paid to the host county.

2004 - Waste Control Specialists LLC (WCS) submitted a license application to TCEQ for the disposal of low-level radioactive waste at a site on the Texas-New Mexico border in western Andrews County. The application proposed two facilities to be authorized under one license, the Compact Waste Disposal Facility (30 acres) and the Federal Waste Disposal Facility (90 acres).

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State of Maine's withdrawal from the Texas Compact became effective.

2005 - The State of Vermont paid the first of two installments (\$12.5 million for each installment) to the State of Texas, which was deposited into the Low-Level Radioactive Waste Fund (0088). The Texas Compact requires each party state, except for the host state, to contribute a total of \$25 million to the host state.

2007 - The Texas Legislature enacted [Senate Bill 1604](#) (80th Texas Legislature) transferring radioactive waste management and disposal functions from the Department of State Health Services (DSHS) to TCEQ. The bill required TCEQ to complete the technical review and process the pending WCS by-product material disposal application transferred from the DSHS by October 2007.

2008 - The TCEQ Executive Director published a Draft License and a Draft Environmental Analysis for public comment on the pending WCS low-level radioactive waste disposal application.

The TCEQ Commissioners issued an order for the TCEQ Executive Director to transmit a request to the Attorney General of the State of Texas to begin condemnation proceedings to acquire the remaining mineral rights underlying land in Andrews County where the WCS site is proposed to be located.

Texas Governor Perry appointed six commissioners to the Texas Low-Level Radioactive Waste Disposal Compact Commission (Texas Compact Commission).

2009 - On January 14, 2009, the TCEQ Commissioners approved an order on the WCS application for Radioactive Material License No. R04100. The license could be signed, granted, and issued after condemnation proceedings of remaining mineral interests were completed and the applicant (WCS) acquired the mineral rights on the underlying land at which the planned site is to be located.

Vermont Governor Douglas named two commissioners to the Texas Compact Commission. The first meeting of the Texas Compact Commission was held at TCEQ in February.

Condemnation proceedings of remaining mineral rights beneath the WCS site were completed. On September 10, 2009, the TCEQ Executive Director signed and issued a license to WCS authorizing the disposal of low-level radioactive waste.

2010 - On June 1, 2010, WCS submitted an initial application for the proposed disposal rate for the Texas Compact Waste Disposal Facility.

Bonds were issued by Andrews County to fund the pending construction of the Texas Compact Waste Disposal Facility and the Federal Waste Disposal Facility. All land and mineral rights to WCS' holdings in Andrews County, as well as WCS equipment and fixtures are sold to Andrews County and leased back to WCS. The Texas Compact Waste Disposal Facility and Federal Waste Disposal Facility were not a part of this transaction.

2011 - On January 4, 2011, the Texas Compact Commission voted to adopt rules allowing for importation for disposal into the Texas Compact Disposal Facility and for petitioning for exportation of low-level radioactive waste from Texas and Vermont.

On January 7, 2011, land and mineral rights to the 30-acre planned Texas Compact Waste Disposal Facility was transferred from WCS to the TCEQ, on the behalf of the

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State of Texas. A Lease Agreement was signed between TCEQ and the operator, WCS, for the Texas Compact Waste Disposal Facility. The TCEQ Executive Director issued a written authorization for the commencement of construction for the Texas Compact Waste Disposal Facility and the Federal Waste Disposal Facility under Radioactive Material License, R04100.

On January 10, 2011, site construction of the Texas Compact Waste Disposal Facility and the Federal Waste Disposal Facility began in Andrews County.

The Texas Legislature enacted [Senate Bill 1504](#) (82nd Texas Legislature) which charged the TCEQ to conduct “a study on the available volume and curie capacity of the Compact Waste Disposal Facility for the disposal of party state compact waste and nonparty state compact waste.”

Senate Bill 1504 created limits on the initial licensed capacity and allowed for a system of importation of nonparty waste for disposal into the Compact Waste Disposal Facility. The Texas Compact Commission promulgated rules regarding importation in 2011 and 2012 which included TCEQ certification through a written evaluation that the waste is authorized for disposal under the license.

Senate Bill 1504 also allowed for TCEQ to assess a 20% surcharge of the total contracted rate for the disposal of nonparty compact waste into the Compact Waste Disposal Facility.

On August 25, 2011, the TCEQ Executive Director set the interim disposal rates which remained in effect until a final maximum disposal rate schedule was adopted by rule. 30 Texas Administrative Code (TAC) §336.1309(g) required the ED initiate an expedited rulemaking to establish rates once the initial maximum disposal rates had been determined.

2012 – TCEQ completed and submitted the initial “Capacity Report for Low-Level Radioactive Waste” report to the 83rd Texas Legislature.

TCEQ authorized the commencement of disposal operations at the Compact Waste Disposal Facility on April 25, 2012 with the first waste shipment of low-level radioactive waste being received on April 27, 2012.

2013 – The Texas Legislature enacted [Senate Bill 347](#) (83rd Texas Legislature) which charged TCEQ with conducting and submitting an updated capacity study by the end of 2016. Senate Bill 347 also made various changes to volumes and curie amounts, including volume reduction for nonparty compact waste.

The final maximum disposal rate schedule was adopted by rule in 30 TAC Chapter 336, Subchapter N. This rulemaking set out the maximum disposal rates that the licensee may charge generators for disposal of low-level radioactive waste.

2014 – WCS submitted a petition for rulemaking to amend 30 TAC Chapter 336 to remove the prohibition on disposal of Greater Than Class C (GTCC) low-level radioactive waste. TCEQ subsequently requested clarification on the jurisdictional authority from the Nuclear Regulatory Commission (NRC) for licensing the disposal of GTCC. The request to the NRC is still pending.

2016 – TCEQ completed and submitted the second “Capacity Report for Low-Level Radioactive Waste” report to the 85th Texas Legislature.

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- 2017 - The Texas Legislature enacted [House Bill 2662](#) (85th Texas Legislature) which charged TCEQ with conducting and submitting an updated capacity study every four years. The bill also temporarily reduced the fees paid by WCS for nonparty compact waste from 20% to 10% of the gross receipts for waste disposed in the Compact Waste Disposal Facility and it temporarily eliminated the 5% state fee to the state general revenue until September 1, 2019.
- 2019 - Temporarily reduced and eliminated fees, enacted by HB 2662, were reinstated September 1, 2019.
- 2020 - TCEQ completed and submitted the updated "Capacity Report for Low-Level Radioactive Waste" report to the 87th Texas Legislature.